

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re ) Fair Hearing No. 9380  
 )  
Appeal of )

## INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for Medicaid. The issue is whether the petitioner is disabled within the meaning of the pertinent regulations.

## FINDINGS OF FACT

The petitioner is 64-year-old woman who is a high-school graduate. In the past fifteen years she has worked as an outreach worker for a community action agency and, with her husband, as a "host" of a recreation area in the National Forest. The former job entailed many hours of driving a car; the latter job included sweeping portions of hiking trails and occasionally lifting and carrying a "portable" information box weighing 25 pounds.

In June, 1989, the petitioner suffered an episode of "near syncope" and chest pain, and was admitted to the hospital for three days. She was diagnosed as having "myocardial ischemia without infarction, secondary to arteriosclerotic heart disease." She was discharged on a special diet and medication.

The petitioner also has a history of hypertension and

hearing loss. In a report dated September 1, 1989, her treating physician stated that she was limited to 4 hours a day of work that did not entail lifting over ten pounds and walking over 100 yards at a time. The physician described her condition as "stable" and stated that "probably" she could not perform any work on a sustained, full-time basis.

The petitioner's chief complaints are chronic fatigue and frequent "spells" in which she has chest pain and difficulty in breathing. These come on unexpectedly and are not always related to physical exertion. She takes nitroglycerine when they occur and she has to lie down afterwards.

Based on the above, it is found that the petitioner, as of June, 1989, and for the foreseeable future, cannot perform her past work<sup>1</sup> or any other job that requires significant physical exertion. Under the regulations (see below) this is sufficient to conclude that the petitioner is disabled.

ORDER

The department's decision is reversed.

REASONS

Medicaid Manual Section M211.2 defines disability as follows:

Disability is the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, or combination of impairments, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not fewer than twelve (12) months. To meet this definition, the applicant

must have a severe impairment, which makes him/her unable to do his/her previous work or any other substantial gainful activity which exists in the national economy. To determine whether the client is able to do any other work, the client's residual functional capacity, age, education, and work experience is considered.

In addition to the above, the regulations provide that an individual of the petitioner's age who cannot perform her past work and who is limited to "sedentary" or "light" work<sup>2</sup> is disabled unless she has "highly marketable skills". 20 C.F.R. § 416.963(d). The department does not maintain that the petitioner has such skills. Therefore, based on the above findings, the petitioner must be considered disabled. The department's decision is reversed.

FOOTNOTES

<sup>1</sup>A job, such as her outreach job, requiring full days of driving any distance, would appear to be precluded as a matter of health and public safety.

<sup>2</sup>See 20 C.F.R. § 416.967(a) and (b).

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